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EXAMINER

SHEIKH, ASFAND M

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3627

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 12/503,012

Filing Date: 7/14/2009

Appellant(s): Dazhi Chen, Elayna Berean, Mayank Patel

D. Benjamin Esplin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/32/2012.

(1) Grounds of Rejection to be Reviewed on Appeal

Every ground of rejection set forth in the Office action dated 2/02/1012 from which the appeal is taken is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(2) Response to Argument

Applicant's Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

1. Claim 1

The rejection of claim 1 constitutes legal error and must be reversed at least because the proposed combination of Mossberg, Gregory, Leonard, and Woolston does not teach or suggest all of the claimed features. For example, the proposed combination does not teach or suggest (a) auctioning dining incentives on a web-site, (b) auctioning a discount from a predetermined price at a restaurant, and/or (c) enabling one or more restaurants to post on the web site dining incentives for auction

Examiner's Response:

The examiner respectfully disagrees.

The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston reads on limitations recited in Claim 1.

a. The Office Action Does Demonstrate That The Cited References Teach Or Suggest Auctioning Dining Incentives On A Web-Site.

The examiner sought to utilize primary reference Mossberg to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54) - Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. a reasonable interpretation would be a certificate for an invitation to a restaurant) (see at least, col. 3, lines 57-61).

The examiner sought to utilize the teaching reference Woolston to teach enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51).

The examiner further sought to utilize the teaching reference Gregory to teach "dining incentives" (see at least, col. 6, lines 54-67).

Further Gregory, as interpreted in the restaurant context, teaches if a particular restaurant location is not doing well a coupon can be distributed that provides a greater

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discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory teaches the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see' at least, col. 6, lines 54-67).

The examiner notes the combination of teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. auctioning dining incentives on a website). Therefore the examiner finds these arguments not persuasive.

b. The Proposed Combination Of Mossberg, Gregory, Leonard, and Woolston Does Teach Or Suggest Auctioning A Discount From A Predetermined Price At A Restaurant.

The examiner sought to utilize primary reference Mossberg to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54) - Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g.

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a reasonable interpretation would be a certificate for an invitation to a restaurant) (see at least, col. 3, lines 57-61).

The examiner sought to utilize the teaching reference Woolston to teach enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51).

The examiner further sought to utilize the teaching reference Gregory. as interpreted in the restaurant context, to teach one or more restaurants create/customize coupon/certificate for specific locations (see at least, col. 6, lines 54-67) and further if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory teaches the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see' at least, col. 6, lines 54-67). The examiner notes as reasonably constructed a discount amount from a predetermined price at a restaurant, for example could be in the form of a certificate stating \$25 dollars off of a \$50 dollar meal. The examiner notes such a certificate would read applicant's limitation. Therefore the examiner finds these arguments not persuasive.

The examiner notes the combination of teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in

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the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. A discount from a predetermined price at a restaurant). Therefore the examiner finds these arguments not persuasive.

c. The Proposed Combination Of Mossberg, Gregory, Leonard, and Woolston Does Teach Or Suggest Enabling One Or More Restaurants To Post On A Web Site Dining Incentives For Auction

The examiner sought to utilize primary reference Mossberg to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54) - Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. a reasonable interpretation would be a certificate for an invitation to a restaurant) (see at least, col. 3, lines 57-61).

The examiner sought to utilize the teaching reference Woolston to teach enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51). The examiner notes as reasonably constructed an item can be interpreted to be certificate that can be posted on a web site for auction.

Further Gregory, as interpreted in the restaurant context, teaches if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory teaches the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see' at least, col. 6, lines 54-67).

The examiner notes the combination of teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. to post an a web site dining incentives for auction). Therefore the examiner finds these arguments not persuasive.

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Applicant's Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

2. Claim 133

The rejection of claim 133 constitutes legal error and must be reversed at least because the proposed combination of Mossberg, Gregory, Leonard, and Woolston does not teach or suggest all of the claimed features. For example, the proposed combination does not teach or suggest (a) auctioning discounted restaurant gift certificates on a web site, (b) auctioning a discount from a predetermined price at a restaurant, and/or (c) enabling one or more restaurants to post on the web site a discounted gift certificate for sale

Examiner's Response:

The examiner respectfully disagrees.

The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston reads on limitations recited in Claim 133.

a. The Office Action Does Demonstrate That The Cited References Teach Or Suggest Auctioning Discounted Restaurant Gift Certificates On A Web-Site.

The examiner sought to utilize primary reference Mossberg to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54) - Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. a reasonable interpretation would be a certificate for an invitation to a restaurant) (see at least, col. 3, lines 57-61).

The examiner sought to utilize the teaching reference Woolston to teach enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51).

The examiner further sought to utilize the teaching reference Greogry to teach "dining incentives" (see at least, col. 6, lines 54-67).

Further Gregory, as interpreted in the restaurant context, teaches if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory teaches the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the

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expiration date of the coupon, and the product to which the coupon/certificate applies (see' at least, col. 6, lines 54-67).

The examiner notes the combination of teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. auctioning discounted restaurant gift certificates on a website). Therefore the examiner finds these arguments not persuasive.

b. The Proposed Combination Of Mossberg, Gregory, Leonard, and Woolston Does Teach Or Suggest Auctioning A Discount From A Predetermined Price At A Restaurant.

The examiner sought to utilize primary reference Mossberg to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54) - Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. a reasonable interpretation would be a certificate for an invitation to a restaurant) (see at least, col. 3, lines 57-61).

The examiner sought to utilize the teaching reference Woolston to teach enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51).

The examiner further sought to utilize the teaching reference Gregory. as interpreted in the restaurant context, to teach one or more restaurants create/customize coupon/certificate for specific locations (see at least, col. 6, lines 54-67) and further if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory teaches the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see' at least, col. 6, lines 54-67). The examiner notes as reasonably constructed a discount amount from a predetermined price at a restaurant, for example could be in the form of a certificate stating \$25 dollars off of a \$50 dollar meal. The examiner notes such a certificate would read applicant's limitation. Therefore the examiner finds these arguments not persuasive.

The examiner notes the combination of teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. A

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discount from a predetermined price at a restaurant). Therefore the examiner finds these arguments not persuasive.

c. The Proposed Combination Of Mossberg, Gregory, Leonard, and Woolston Does Teach Or Suggest Enabling One Or More Restaurants To Post On A Web Site Dining Incentives For Sale

The examiner sought to utilize primary reference Mossberg to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54) - Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. a reasonable interpretation would be a certificate for an invitation to a restaurant) (see at least, col. 3, lines 57-61).

The examiner sought to utilize the teaching reference Woolston to teach enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51). The examiner notes as reasonably constructed an item can be interpreted to be certificate that can be posted on a web site for auction or further to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction (see at least, col. 13, lines 21-57).

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Further Gregory, as interpreted in the restaurant context, teaches if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory teaches the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see' at least, col. 6, lines 54-67).

The examiner notes the combination of teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. to post an a web site dining incentives for sale). Therefore the examiner finds these arguments not persuasive.

Applicant's Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

3. Claim 4

Claim 4 recites inter alia the following features, which are not taught or suggested in the cited sections of Mossberg, Gregory, Leonard, and Woolston: ...includes **a registration process** where each of the one or more users provides identification, demographic and service preference information.

Examiner's Response:

The examiner respectfully disagrees.

The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston reads on limitations recited in Claim 4.

The examiner sought to utilize the teaching reference Woolston to teach a registration process; more specifically Woolston states "The participant may respond to the display welcome message and menu 102 program by giving an appropriate log on response 104. The get log on response 104 may verify and grant a level of access privileges to the participant. It is understood that the consignment node user may require the get log in response 104 to retrieve a credit card number, pin number, user ID and the like, to grant access privileges (see at least, col. 9, lines 9-12) and further "a participant may establish an account with his local consignment node to be debited and

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credited with the funds used and generated with his transactions (see at least, col. 5, lines 11-14)”, which as reasonably constructed, reads on a registration process.

Therefore this argument is not persuasive

Further the examiner notes the Appellant appears to direct the arguments towards a **centralized** registration process, which is not found in the claim language.

Therefore this argument is moot.

Applicant’s Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

4. Claim 10

The rejection of claim 10 constitutes legal error and must be reversed at least because the proposed taking of Official Notice is improper. Specifically, taking Official Notice of a personalized auction page is improper.

Claim 10 recites inter alia the following feature(s):

...wherein a user can create a personalized auction page where the user creates an auction list comprising a list of one or more auctions of interest and monitors the one or more auctions of interest on the auction list.

Examiner’s Response:

The examiner respectfully disagrees.

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The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston and Official Notice is proper and would read on Claim 10, as evidenced by Friendland et al. (US 6,644,601 B1).

The examiner notes Official Notice was taken with respect to “that is old and well known that many websites allow a user to allow a user [sic] to customize/personalize a given web page for a particular use, use web information as means for targeted marketing/promotion, and/or download data via a website or electronic mail. This helps by [sic] maximizing the user's experience based on the collected data.”

The examiner notes this was in relation to the claimed language of “...wherein a user can create a personalized auction page where the user creates an auction list comprising a list of one or more auctions of interest and monitors the one or more auctions of interest on the auction list.”

The examiner notes the Official Notice is proper, based on evidence of Friendland, which states “If there are many upcoming auctions, multiple auction list screens may be displayed, or the client may interact with the user interface displayed by the DLA client program to navigate through a hierarchical list of categories for items auctioned in particular auctions in order to arrive at a sub-list of auctions of interest to the client. Alternatively, the client may select other types of sub-lists of upcoming auctions based on the auction date, type of auction, or other such characteristics,” (see at least, col. 11, lines 51-59). The examiner notes as reasonably constructed “wherein a user can create a personalized auction page where the user creates an auction list

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comprising a list of one or more auctions of interest and monitors the one or more auctions of interest on the auction list” can be read from - a screen displayed on a user interface which has selected auctions of interest to the client. Therefore this argument is not persuasive

Applicant’s Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

5. Claim 26

The rejection of claim 26 constitutes legal error and must be reversed at least because the proposed taking of Official Notice is improper. Specifically, taking Official Notice of a personalized auction page is improper.

Claim 26 recites inter alia the following feature(s):

... wherein bidding data and user information are aggregated and provided to the one or more restaurants to be used for at least one of: targeted marketing or promotions.

Examiner’s Response:

The examiner respectfully disagrees.

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The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston and Official Notice is proper and would read on Claim 26, as evidenced by Eldering (US 6,324,519 B1).

The examiner notes Official Notice was taken with respect to “that is old and well known that many websites allow a user to allow a user [sic] to customize/personalize a given web page for a particular use, use web information as means for targeted marketing/promotion, and/or download data via a website or electronic mail. This helps by [sic] maximizing the user's experience based on the collected data.”

The examiner notes this was in relation to the claimed language of “... wherein bidding data and user information are aggregated and provided to the one or more restaurants to be used for at least one of: targeted marketing or promotions.”

The examiner notes the Official Notice is proper, based on evidence of Eldering, which states “Data to perform the consumer profiling is received from... a website” (see at least, col. 4, lines 16-28), which can be an auction website and further Eldering states Consumer profile which is determined from observation of the consumer's viewing habits on consumer PC” (see at least, col. 4, lines 37-39) and further Eldering states “The advertiser transmits ad characterization information which is correlated with the consumer profile” (see at least, abstract). The examiner notes as reasonably constructed “... wherein bidding data and user information are aggregated and provided to the one or more restaurants to be used for at least one of: targeted marketing or promotions” can be read from - data from a website and observation of the consumer's

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viewing habits in order to generate an ad correlated to the consumer. Therefore this argument is not persuasive.

Applicant's Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

6. Claim 32

The rejection of claim 32 constitutes legal error and must be reversed at least because the proposed taking of Official Notice is improper. Specifically, taking Official Notice of a personalized auction page is improper.

Claim 32 recites inter alia the following feature(s):

... enabling the winner...to download the item for redemption from the web-site or via electronic mail.

Examiner's Response:

The examiner respectfully disagrees.

The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston and Official Notice is proper and would read on Claim 32, as evidenced by Deaton et al. (US 6,292,786 B1).

The examiner notes Official Notice was taken with respect to "that is old and well known that many websites allow a user to allow a user [sic] to customize/personalize a given web page for a particular use, use web information as means for targeted marketing/promotion, and/or download data via a website or electronic mail. This helps by [sic] maximizing the user's experience based on the collected data."

The examiner notes this was in relation to the claimed language of "...enabling the winner...to download the item for redemption from the web-site or via electronic mail."

The examiner notes the Official Notice is proper, based on evidence of Deaton, which states electronic discounts may be available to customer in printed form by allowing customer to download... on either a... web site (see at least, col. 18, lines 43-46)). The examiner notes as reasonably constructed applicant's claimed language can be read from the evidence of Deaton. Therefore this argument is not persuasive.

Applicant's Argument:

A. 35 U.S.C. § 103(a) rejection based on Mossberg, Gregory, Leonard, and Woolston

6. Claim 147-148

The rejection of claim 146-148 constitutes legal error and must be reversed at least because the proposed taking of Official Notice is improper. Specifically, taking Official Notice of a personalized auction page is improper.

Claim 147 recites inter alia the following feature(s):

...wherein the user must register with the web site prior to bidding on or purchasing a gift certificate and provide demographic information.

Claim 148 recites inter alia the following feature(s):

...wherein the user must register with the web site prior to bidding on or purchasing a gift certificate and provide identification and demographic information

Examiner's Response:

The examiner respectfully disagrees.

The examiner notes the combination of Mossberg, Gregory, Leonard, and Woolston and Official Notice is proper and would read on Claim 147-148, as evidenced by Bowman-Amuah (US 6,697,824 B1).

The examiner notes Official Notice was taken with respect to "that it is old and well known that many websites require user's to input demographic information during registration in order to better tailor to user's needs. This helps by maximizing the user's experience based on the collected data"

The examiner notes this was in relation to the claimed language of ...wherein the user must register with the web site prior to bidding on or purchasing a gift certificate and provide demographic information and or ...wherein the user must register with the web site prior to bidding on or purchasing a gift certificate and provide identification and demographic information.

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The examiner notes the Official Notice is proper, based on evidence of Bowman-Amuah, which states the site explicitly asks the user to provide information.... May include interests, demographics or any other profile attributes... (see at least, col. 45, lines 54-62) and further Bowman-Amuah states identify the user (see at least, col. 42, lines 6-8)... and requires the user to log-in or sign on to the site.. requires the creation of a user ID and password to utilize the system (see at least, col. 42, lines 50-53). The examiner notes as reasonably constructed applicant's claimed language can be read from the evidence of Bowman-Amuah. Therefore this argument is not persuasive

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Asfand Sheikh/

Primary Examiner, Art Unit 3627

Conferees:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

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